

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
JOSEPH WADE,

Plaintiff,

-against-

23 **CIVIL** 4707 (PAE)

**JUDGMENT**

ROBERT J. RODRIGUEZ, in his official capacity as  
Secretary of State, New York Department of State, et  
al.,

Defendants.

-----X

It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Opinion and Order dated September 10, 2024, the Court grants defendants' motion to dismiss under Rule 12(b)(1) and denies Wade's motion to amend the Amended Complaint. Because the Court dismisses the case under Rule 12(b)(1), the Court does not reach defendants' motion to dismiss based on Rule 12(b)(6). Because the dismissal is based on a lack of subject matter jurisdiction, it is without prejudice to Wade's right to bring a separate lawsuit as to which subject matter jurisdiction exists. See, e.g., *J J Cranston Constr. Corp. v. City of New York*, 602 F. Supp. 3d 373, 379 n.9 (E.D.N.Y. 2022) ("Dismissal for lack of subject matter jurisdiction must be without prejudice."); *Hernandez v. Conriv Realty Assocs.*, 182 F.3d 121, 123 (2d Cir. 1999) ("[W]here a court lacks subject matter jurisdiction, it also lacks the power to dismiss with prejudice."); *Siegel v. Apergis*, 610 F. App'x 15, 16 (2d Cir. 2015) ("Our precedent instructs that when a court dismisses for lack of subject-matter jurisdiction, that dismissal must be without prejudice; accordingly, the case is closed.

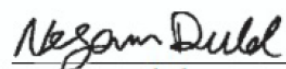
**Dated:** New York, New York

September 10, 2024

**DANIEL ORTIZ**

Acting Clerk of Court

BY:

  
Deputy Clerk